

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

RECEIVED

JUAN CARLOS CRUZ,  
Petitioner,

2006 MAR 14 A 9:22

v.

Case No. 2:05-CV-877- WKW

CLERK OF COURT  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

SCOTT A. MIDDLEBROOKS,  
Respondent.

\_\_\_\_\_ /

**PETITIONER'S MOTION SEEKING THIS COURT TO TAKE  
JUDICIAL NOTICE OF THE HEREIN "NEWLY OBTAINED EVIDENCE"**

COMES NOW, the Petitioner, Juan Carlos Cruz (hereinafter "Petitioner"), pro se, and respectfully files this motion before this Court.

In the instant matter Petitioner has vigorously argued that the Respondent has "not" granted him the one year sentence reduction upon Petitioner's successful completion of the Residential Drug Alcohol Program ("RDAP") (18 U.S.C. §3621(b)) based on the "sole" fact that Petitioner is a Cuban national thus, the essence of the claim sets forth acts of racial discrimination by the Respondent.

The Respondent who is represented by the United States Attorney's Office for the Middle District of Alabama has defended to Petitioner's claim by arguing that, Petitioner has not been granted the one year sentence reduction under 18 U.S.C. §3621(b) because, Petitioner does not qualify for halfway house placement and therefore, cannot complete the "Nonresidential Transitional Services Program" which is offered at the halfway house.

On March 7, 2006, the F.P.C. Montgomery RDAP presented the Petitioner with the "Nonresidential Transitional Program's Certificate of Completion". See Exhibit "A". Therefore, Petitioner "no" longer needs to be placed in halfway house in order to complete the Nonresidential Transitional Service Program.

In essence, the only reason at this time why Petitioner's sentence is not reduced by one year is that Petitioner is a Cuban national and such denial of the benefits of a federally funded program is a direct violation of the 1964 Civil Rights Act.

Based on the foregoing it becomes axiomatic that Petitioner is being discriminated and deprived of the benefits of a federally funded program because, of his nationality (i.e. Cuban national).

March 7, 2006

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Juan Carlos Cruz", is written over a horizontal line.

Juan Carlos Cruz, pro se.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing legal instrument was served on this 7<sup>th</sup> day of March, 2006, to: United States Attorney's Office, R. Randolph Neely, AUSA, Post Office Box 197, Montgomery, Alabama 36101-0197; Scott A. Middlebrooks, Warden at the Federal Prison Camp Montgomery, Maxwell Air Force Base, Montgomery, Alabama 36112. The service was conducted via first class mail. This Certificate of Service is submitted under penalty of perjury pursuant to 28 U.S.C. §1746.

Juan C. Cruz.

Juan Carlos Cruz, pro se.